



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2015-0423]

RIN 1625-AA09

Drawbridge Operation Regulation; Rancocas Creek, Centerton,  
NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

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SUMMARY: The Coast Guard proposes to change the regulation that governs the operation of the SR#38 Bridge in Centerton (Burlington County Route 635) over Rancocas Creek, mile 7.8, at Mt. Laurel, Westampton and Willingboro Townships in Burlington County, NJ. The proposed rule intends to change the current operating regulation and allow the bridge to remain in the closed position for the passage of vessels. There have been no requests for openings since the early 1990's. This proposed rule will also reflect a name change.

DATES: Comments and related material must reach the Coast

Guard on or before [Insert date 60 days after date of publication in the FEDERAL REGISTER]. Requests for public meetings must be received by the Coast Guard on or before [Insert date 30 days after publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2015-0423 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Jim Rousseau, Fifth Coast Guard District Bridge Administration Division, Coast

Guard; telephone 757-398-6557, e-mail:  
[james.l.rousseau2@uscg.mil](mailto:james.l.rousseau2@uscg.mil). If you have questions on  
viewing or submitting material to the docket, call Cheryl  
Collins, Program Manager, Docket Operations, telephone 202-  
366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
§	Section Symbol
U.S.C.	United States Code

##### A. Public Participation and Request for Comments

We encourage you to participate in this proposed  
rulemaking by submitting comments and related materials.  
All comments received will be posted, without change to  
<http://www.regulations.gov> and will include any personal  
information you have provided.

##### 1. Submitting comments

If you submit a comment, please include the docket  
number for this proposed rulemaking (USCG-2015-0423),  
indicate the specific section of this document to which

each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2015-0423] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all

comments and material received during the comment period and may change the rule based on your comments.

## 2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number USCG-2015-0423 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

## 3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

## 4. Public Meeting

We do not plan to hold a public meeting but you may submit a request for one that reaches the Coast Guard on or

before [Insert date 30 days after date of publication in the FEDERAL REGISTER] using one of the four methods specified under ADDRESSES. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Basis and Purpose

The current operating schedule for the SR#38 bridge is set out in 33 CFR 117.745 (b) which allows the SR#38 Bridge to operate as follows: From April 1 through October 31 open on signal from 7 a.m. to 11 p.m. From November 1 through March 31 from 7 a.m. to 11 p.m. open on signal if at least 24 hours notice is given. Year round from 11 p.m. to 7 a.m. need not open for the passage of vessels.

The bridge owner, County of Burlington, NJ requested a change in the operation regulation for the SR#38 Bridge, mile 7.8, across Rancocas Creek in Mt. Laurel, NJ and that its name is changed to what it is known locally. The County of Burlington provided information to the Coast Guard about the lack of any openings of the draw spans dating back to the early 1990's. The bridge is currently closed to navigation and vehicular traffic due to emergency repairs and emergency inspections since May 2015. The last requested opening was in the early 1990's as an emergency

request. There have been monthly openings as per maintenance requirements.

In the closed-to-navigation position, the SR#38 Bridge has vertical clearances of six feet above mean high water. Typical waterway users include very small recreational vessels including canoes and kayaks.

#### C. Discussion of Proposed Rule

In order to align the operating schedule of the SR#38 bridge with observed marine traffic the proposed change amends the regulation by adding a paragraph (c) to state "that the bridge need not open." The lack of requests for vessel openings of the drawbridge for over 20 years illustrates that the vessels that use this waterway can safely navigate while the bridge is in the closed-to-navigation position. The current regulation also incorrectly identifies the bridge as the SR#38 Bridge. This proposed change will change the name to the Centerton County Route 635 Bridge. All language in existing paragraph (b) will remain the same except for the removal of the SR#38 bridge reference.

While this proposed rule will allow the bridge to remain closed to navigation, it does not alleviate the bridge owner of his responsibility under 33 CFR §117.7.

#### D. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

#### 1. Regulatory Planning and Review

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Based on County of Burlington bridge tender logs, there will not be any vessels impacted by this proposed change. No bridge openings have been requested in over 20 years.

#### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in



their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This action will not have a significant economic impact on a substantial number of small entities for the following reasons: There have been no requests for the bridge to open since the early 1990's, and the bridge has been unable to open since May of 2015.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will

not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this proposed rule under Executive

Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32) (e), of the Instruction.

Under figure 2-1, paragraph (32) (e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. In §117.745, revise paragraph (b) introductory text and add paragraph (c) to read as follows:

§ 117.745 Rancocas Creek

\* \* \* \* \*

(b) The drawspan for the Riverside-Delanco/SR#543 Drawbridge, mile 1.3 at Riverside must operate as follows:

\* \* \*

(c) The draw of the Centerton County Route 635 Bridge, mile 7.8, at Mt. Laurel, need not open for the passage of vessels.

Dated: June 11, 2015

Robert J. Tarantino  
Captain, United States Coast Guard  
Acting Commander, Fifth Coast Guard District  
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Date: 7/6/2015]